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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**
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10 CHRISTINA L. ALEXANDER,
11 Petitioner,
12 v.
13 D.K. JOHNSON, Warden,
14 Respondent.

Civil No. 12cv1401 BEN (WMC)

**ORDER RE: MOTION FOR LEAVE
TO FILE AMENDED PETITION**

[ECF No. 4]

15 **I. INTRODUCTION AND PROCEDURAL HISTORY**

16 On July 16, 2012, the Honorable Roger T. Benitez directed the Clerk of Court to refile a
17 duplicative Petition for Writ of Habeas Corpus in Case No. 12cv1402 in the instant case “as an original
18 Motion to Amend the Petition.” [ECF No. 4 at p. 1.] Petitioner’s filing in Case No. 12cv1402
19 challenged the same state court conviction as the Petition in the instant case. *Id.* As directed by Judge
20 Benitez, the Court construes the filing in Case No. 12cv1402 as a motion to amend the pending petition.
21 [Id. at p. 2.]

22 **II. STANDARD**

23 Federal Rule of Civil Procedure 15(a) provides that a party may amend its complaint once “as
24 a matter of course” before a responsive pleading is served, or at any time within twenty days of service
25 if it requires no response. “Otherwise a party may amend the party’s pleading only by leave of court
26 or by written consent of the adverse party; and leave shall be freely given when justice so requires.”
27 Fed. R. Civ. P. 15 (a).
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1 This Court notes that on several occasions, “the Supreme Court has instructed the lower federal
2 courts to heed carefully the command of Rule 15(a), F[ed]. R. Civ. P., by freely granting leave to amend
3 when justice so requires.” *DCD Programs, LTD. v. Leighton*, 833 F.2d 183, 186 (9th Cir. 1995) (quoting
4 *Gabrielson v. Montgomery Ward & Co.*, 785 F.2d 762, 765 (9th Cir. 1986)) (quoting *Howey v. United*
5 *States*, 481 F.2d 1187, 1190 (9th Cir. 1973)) (citations omitted). “Rule 15's policy of favoring
6 amendments to pleadings should be applied with ‘extreme liberality.’” *United States v. Webb*, 655 F.2d
7 977, 979 (9th Cir. 1981) (citing *Rosenberg Brothers & Co. v. Arnold*, 283 F.2d 406 (9th Cir. 1960) (per
8 curiam)).

9 **III. DISCUSSION AND ORDER THEREON**

10 No responsive pleading has been served in the instant matter. Fed. R. Civ. P. 15 (a).
11 Accordingly, the Court **GRANTS** the motion to amend and accepts Document No. 4 on the docket as
12 Plaintiff’s First Amended Petition in this action. The Clerk of Court is **DIRECTED** to identify the
13 filing at Document No. 4 in the Case Management / Electronic Case Filing system as the First Amended
14 Petition for Writ of Habeas Corpus.

15 **IT IS SO ORDERED.**

16 DATED: July 26, 2012

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19 Hon. William McCurine, Jr.
20 U.S. Magistrate Judge
21 United States District Court
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